

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Brent & Marci Zogg,
Petitioners-Appellants,

v.

Scott County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-82-1389
Parcel No. 022823202

On March 13, 2013, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Petitioners-Appellants Brent and Marci Zogg were represented by attorney Chris Surls of William B. Norton Law Firm in Lowden, Iowa and appeared by telephone. Scott County Deputy Assessor Ron Beckenbaugh represented the Board of Review at hearing. The Appeal Board having reviewed the record, heard the testimony, and being fully advised finds:

Findings of Fact

Brent and Marci Zogg, owners of property located at 27610 90th Avenue, Allens Grove Township, Iowa, appeal the Scott County Board of Review's decision reassessing their property. The real estate was classified residential on the January 1, 2011, assessment and valued at \$358,140, representing \$88,000 in land value and \$270,140 in dwelling value.

According to the property record card, the subject property is a one-story home built in 2009 with 1664 square feet of above-grade living area, with 520 square feet of basement finish. The home also has a 66 square-foot concrete stoop, 84 square-foot wood deck, and a 600 square-foot attached garage. The home is of good quality (3+5) grade and is in normal condition. The site is 4.23 acres and

is also improved with a 2268 square-foot, steel utility building constructed in 2009, including 384 square feet of heated, finished area.

The Zoggs protested to the Board of Review on the ground that the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2). They asserted the subject property's correct value is \$275,000. The Board of Review lowered the assessment from \$358,140 to \$347,610 allocated \$88,000 in land value and \$259,610 in dwelling value.

The Zoggs then appealed to this Board re-asserting their over-assessment claim.

Broker Associate Mandy Maynard of Ruhl & Ruhl Realtors testified on the behalf of the Zoggs. Maynard's testimony was based on a market analysis she completed for the subject property. Deputy Assessor Ron Beckenbaugh objected to Maynard's testimony because the Zoggs did not provide a copy of the market analysis to the Board of Review or to this Board prior to the hearing as required by PAAB Administrative rule 701-71.21(29). As a result, we do not consider this evidence or Maynard's testimony.

Appraiser James Hand of DeWitt Appraisals testified regarding an appraisal he completed on the subject property. He stated that he has been a state certified appraiser since 1991 and that he has been a Broker/Real Estate agent since 1983. Hand's appraisal has an effective date of April 29, 2011, and concludes a final value opinion of \$275,000. He testified that he appraised the Zogg property before the basement was completely finished.

Hand utilized four comparable sales. These properties are summarized below.

Comparable	Address ¹	Site Size	Gross Living Area	Sale Price	Sale Date	Adjusted Sales Price
subject		4.23 acres	1664			
1	27011 151st Ave	0.74 acres	1752	\$222,000	7/1/2010	\$252,500
2	18111 273rd St	0.83 acres	1582	\$218,000	4/29/2011	\$249,500
3	27142 151st Ave	0.50 acres	1260	\$206,000	10/22/2010	\$244,580
4	23500 140th Ave	3.5 acres	2582	\$359,000	5/25/2010	\$342,140

Hand made \$10,000 upward adjustments to Comparables 1, 2, and 3 to account for their smaller site size. He testified that “the land is worth more than that” but he does not believe “the market recognizes a lot of difference between an acre and five acres,” partly because of the rolling terrain and the wooded nature of the subject site. He also stated that he had difficulty finding comparable sales because the subject is a “one-bedroom” property. While we recognize the property has only one above grade bedroom, it also has a finished, walk-out basement with additional bedrooms. In our experience, we believe the market would recognize the overall utility of the property regardless of the bedrooms being above-grade or below-grade.

Hand also testified that he does not believe the subject’s utility building has a market value equal to the cost. He believes it adds value, but not “dollar for dollar” of the actual cost. He does not explain why he settled on a \$15,000 adjustment for this amenity, other than “its something less than the cost.”

When questioned about the lack of basement finish adjustments, Hand stated he could not prove the basement finish added much value in the market. He indicated that at the time of his inspection the subject’s basement finish was “almost” finished (sheet-rocked). In general, he didn’t believe it added value although it wouldn’t have taken much to complete the finish (adding carpet). Later in his testimony he indicated that forty-percent of the basement area was fully finished and ready to live in and that the remainder of the basement was in the process of being finished. Ultimately, we

¹ Comparables 1-3 are located in Long Grove, Iowa while Comparable 4 is located in Eldridge, Iowa. The subject property is located in Allen Groves Township.

note there is no description in Hand's appraisal of the subject's basement finish or the amount and level of finish of the comparable properties are reported as having. Lacking these descriptions makes it difficult for this Board to determine if the adjustments (or lack of adjustments) are reasonable; but we do not believe that forty-percent of "fully finished and ready to live in" basement would have no value in the market. For these reasons, we give no consideration to his analysis.

The Zoggs also submitted Assessment Summaries of two other properties in the immediate area, 27605 Allens Grove Road and 27441 Allens Grove Road. Marci Zogg points out these properties have more above-grade living area and smaller lots, but are assessed for less than the subject. Based upon the photos of these properties, we note it appears they are of lower exterior design quality than the subject. Both of these properties lack basement finish and it is unknown if they have walk-out basements. Furthermore, the record indicates 27441 Allens Grove is a modular home with a 3+10 grade compared to the subject property's 3+5 grade. Additionally, it was noted that the utility buildings that each of these properties have are of lower quality, having dirt floors or no electricity, when compared to the subject's utility building. For these reasons and because the Zoggs did not provide evidence of the properties' market value, we give the Assessment Summaries no consideration for the Zoggs' over assessment claim.

The Board of Review submitted an appraisal completed by Scott Broders of Broders Appraisal, Davenport, Iowa. The appraisal has an effective date of January 1, 2011, and concludes a final value opinion of \$312,000. Broders developed the sales comparison and cost approach to value. He concluded a value of \$310,315 by the cost approach. He included six comparable properties for analysis. We reject comparable 1 (6275 30th Avenue) as it is a forty-acre site and the improvements are significantly older than the subject's improvements. The remaining sales have adjusted values from roughly \$301,000 to \$316,500.

One primary difference between Broders' and Hand's appraisals is the value assigned to the steel utility building. Where Hand only attributed \$15,000 to the subject's utility building, Broders' appraisal reflects a \$40,000 contributory value. Based on the testimony and pictures in the record which show the interior finish of the utility building, we find Broders' opinion of the contributory value more accurately reflects the utility building's contributory value. Additionally, Broders' appraisal includes pictures of the basement finish which we find to be of living-quality finish and would reasonably add value. Broders adjusted his comparable sales for differences in the amount of basement finish. For these reasons, we find Broders' appraisal to be the best evidence of the market value of the subject property as of January 1, 2011.

Based on the foregoing, the totality of the evidence establishes the subject property is over-assessed and its fair market value as of January 1, 2011, is \$312,000.

Conclusion of Law

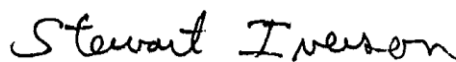
The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. §441.21(1)(b). If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).


In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The Zoggs submitted Hand's appraisal indicating the subject property's value to be \$275,000. The Board does not believe Hand adequately considered the contributory value of the subject's basement finish or of the utility building and therefore we give it no consideration. In contrast, Broders' appraisal makes reasonable adjustments to account for the contributory value of the subject's basement finish and its steel utility building. We find Broders' appraisal to be the best evidence in the record of the subject property's fair market value as of January 1, 2011.

THE APPEAL BOARD ORDERS the assessment of Brent and Marci Zogg's property located at 27610 90th Avenue, Allens Grove Township, Iowa is modified to a total of \$312,000, allocated \$88,000 in land and \$224,000 in improvement value as of January 1, 2011. The Secretary of the Property Assessment Appeal Board shall mail a copy of the Order to the Scott County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcel shall be corrected accordingly.

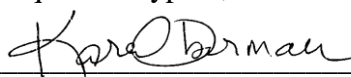
Dated this 10th day of April, 2013.



Stewart Iverson, Presiding Officer



Jacqueline Rypma, Board Member



Karen Oberman, Board Member

Copies to:

Christopher Surls
William B. Norton Law Firm
504 8 Main Street
PO Box 100
Lowden, Iowa 52255
ATTORNEY FOR APPELLANT

Robert Cusack
400 West 4th Street
Davenport, Iowa 52801
ATTORNEY FOR APPELLEE

Roxanna Moritz
600 W. 4th St.
Davenport, IA 52801
AUDITOR

Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on April 10, 2013.

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other



Signature _____